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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.  | CONFIRMATION NO. |
|---|-------------|----------------------|----------------------|------------------|
| 10/699,339  | 11/03/2003  | Stephen J. Seely     | OCI728               | 2510             |
| 7590  | 11/16/2005  |                      | EXAMINER             |                  |
| Sean A. Kaufhold<br>P.O. Box 131447<br>Carlsbad, CA 92013 |             |                      | VANTERPOOL, LESTER L |                  |
|   |             |                      | ART UNIT             | PAPER NUMBER     |
|   |             |                      | 3727                 |                  |

DATE MAILED: 11/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                        |                     |
|------------------------------|------------------------|---------------------|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |
|                              | 10/699,339             | SEELY ET AL.        |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |
|                              | Lester L. Vanterpool   | 3727                |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-8 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-8 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on November 3, 2003 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

|   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | Paper No(s)/Mail Date: _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date: _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION*****Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "Spare Tire Mounting Apparatus" must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because applicant submitted incorrect drawings with application case number 10/699,339 "Spare Tire Mounting Apparatus". Applicant submitted drawings of a "Hanger Tie Rack Storage Apparatus" which appear to be from application case number 10/699016. Applicant is advised to employ the services of a competent patent draftsperson outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

3. The drawings are objected to under 37 CFR 1.83(a) because they fail to show a "Spare Tire Mounting Apparatus" in application number 10/699,399 filed on November 03, 2005 as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate

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changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

#### ***Claim Objections***

4. Claim 6 is objected to because of the following informalities: claim 6 recites "said pole". Claim 6 is a dependent claim from claim 5, which further limits the plate. Therefore, claim 6 should recite "said plate". Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.
6. The subject matter in Figures 1-5 do not properly describe in the apparatus as filed on November 3, 2003 due to incorrect drawings submitted by the applicant.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. To the degree that applicant's invention is understood, Claim 1, 2, 3, 4 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Van Dusen et al., (U.S. Patent Number 5469998). Van Dusen et al., discloses a male and female hitch coupler (See Figure 6), wherein the male hitch may be extended into and secured to the receiver hitch and wherein the female hitch opening extends away from the receiver hitch. Van Dusen et al., shows a pole attached extending upwardly from the mount having a front and backside, and a break therein (See Figure 1). A pole consists of a first portion (19) (column 3, line 28) and a second portion (14) (column 3, line 33) wherein the first portion (19) abuts the mounting (column 5, line 4). A hinge (21) (column 3, line 34) hingedly couples the first (19) and second (14) portion, which is positioned on the front side of the pole. A rod (98) for removably receiving a tire being attached to and extended outwardly away from the front side of the pole wherein the rod is positioned on the second portion of the pole with threads (102) (See Figure 10). Threaded locking members selectively positioned on rod (column 6, line 39) (See Figure 10).

Regarding claim 2, Van Dusen et al., discloses a first portion (19) wherein a first section (26) and a second section (28) are rotatably coupled together (column 3, line 42). See Figure 3.

Regarding claim 3, Van Dusen et al., discloses pair of flanges (34) with each flange being attached to the second section and positioned generally adjacent to each other for preventing rotation of the first section with respect to the second section (column 3, line 54). See Figure 3.

Regarding claim 4, Van Dusen et al., discloses a support (32) being attached to the front side of the pole and extending away from the pole. Furthermore, the support is positioned on the second portion (14) and is generally adjacent to a break (76) See Figure 6.

Regarding claim 5, Van Dusen et al., discloses a plate (96) having an aperture (104) extending therethrough for removably receiving a rod and centrally disposed on the plate (column 6, line 58). See also Figure 10.

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9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. To the degree that applicant's invention is understood, claim 6 - 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Dusen et al., in view of Miller (U.S. Patent Number 5850959). Van Dusen et al., discloses the invention substantially as claimed except for a rigid panel being attached to the backside of the pole. Miller discloses a rigid panel (42) being attached to the backside of the pole. See Figure 2B. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to enhance and make a pole of Van Dusen et al., with a rigid plate as taught by Miller to improve the strength and durability of the pole.

### ***Conclusion***

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lester L. Vanterpool whose telephone number is 571-272-8026. The examiner can normally be reached on Monday - Friday (8:30 - 5:00) EST.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



JES F. PASCUA  
PRIMARY EXAMINER